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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1933

No. 832

OKLAHOMA GAS AND ELECTRIC COMPANY, OKLAHOMA NATURAL GAS COMPANY, W. T. PHILLIPS, JR., ET AL., ETC.,

Appellants,

vs.

OKLAHOMA PACKING COMPANY, FORMERLY WILSON & CO., INC., OF OKLAHOMA, WILSON & CO., INC., OF OKLAHOMA, ET AL.

STATEMENT OF THE JURISDICTION OF THE SUPREME COURT ON APPEAL HEREIN.

This is an appeal for direct review by the Supreme Court of a final decree of the District Court of the United States for the Western District of Oklahoma. The complainants applied to said District Court for interlocutory and permanent injunctions to restrain the Corporation Commission, the State officers, and Wilson & Co. Inc., from enforcing or proceeding to enforce a legislative order of the Corporation Commission of the State of Oklahoma, the same being applied for upon the grounds of the unconstitutionality of such order. The District Judge called to his assistance two additional Judges to hear the matter. The three-Judge court denied the permanent injunction, having previously denied the interlocutory injunction.

Complainants therefore state that the Supreme Court has jurisdiction on appeal herein under Section 380 U. S. C. A. Title 28 (Judicial Code Section 266 amended), and Section 345 U. S. C. A. Title 28 (Judicial Code Section 238 amended).

The order of the Corporation Commission of the State of Oklahoma, the validity of which is involved, is No. 3388, which order was affirmed by the Supreme Court of the State of Oklahoma, acting in its legislative capacity (146 Okla. 272, 288 Pac. 316). On account of the length of said order we omit verbatim copy; the general purport of which order required the Oklahoma Natural Gas Company to furnish natural gas for fuel to Wilson & Co. Inc., a corporation engaged in the general business of packing, storing and selling meat and the products thereof, its plant being located very near, but outside the limits of Oklahoma City. At the time of making said Order No. 3388, and for sometime prior thereto and continuing for a considerable time after the making of said order pending the disposition thereof by the State Supreme Court on appeal, the Oklahoma Gas and Electric Company was selling gas to said Wilson & Co. Inc., for a price remunerative to said Oklahoma Gas and Electric Company, such price or rate so charged by the Oklahoma Gas and Electric Company being a rate approved by the Corporation Commission; said Order No. 3388 required and ordered the Oklahoma Natural Gas Company to sell such gas to Wilson & Co. Inc., at a rate fixed in said order, the same being lower than the rate at which such gas was sold by the Oklahoma Gas and Electric Company. After said Order No. 3388 became final by the affirmance thereof, interlocutory and permanent injunction was applied for herein, as aforesaid, by the Oklahoma Gas and Electric Company, the Oklahoma Natural Gas Corporation, and the Directors of the Oklahoma Natural Gas Company (said Oklahoma Natural Gas Company having

been dissolved subsequent to the making of said order), the complainants in the action alleging that said order was invalid and violative of the rights of the complainants under the Constitution of the United States and particularly the Fourteenth Amendment thereof, and deprived complainants of their property without due process of law, for the reason that neither the Oklahoma Natural Gas Company nor the Oklahoma Natural Gas Corporation had ever professed, offered or held itself out to sell or supply such gas to Wilson & Co. Inc., or other persons, firms or corporations so situated as Wilson & Co. Inc., and for the further reason that such invalid order if enforced deprives Oklahoma Gas and Electric Company of its valuable and remunerative business and property without due process of law.

The final decree sought to be reviewed herein was entered on the 12 day of December, 1933.

The application for appeal herein was filed and presented on the 14 day of December, 1933.

The Supreme Court therefore has jurisdiction of this appeal.

Okla. G. & E. Co. v. *Russell*, 261 U. S. 290;
Okla. G. & E. Co., et al., v. *Wilson & Co. Inc., et al.*, 54 Fed. (2d) 596;
Herkness v. *Irion*, 278 U. S. 92;
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Brucker v. *Fisher*, 49 Fed. (2d) 759.

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